

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF ALABAMA

PRISONER COMPLAINT
[FOR INMATE ACTION] UNDER 42 U.S.C. § 1983

Joe Nathan James, Jr.
Name under which you were convicted

2-610
Your prison number

CIVIL ACTION NO. 22-CV-271-TFM-N

vs. Mark Pettway (Official Capacity) (To be supplied by Clerk of Court)

Terry Raybow (Official Capacity)
Name of Defendant(s)

Holman Prison, K-25 Holman 3700 Atmore AL 36503
Place of Confinement and Address

FILED JUL 5 4 22 PM 3 27 USDC AL

INSTRUCTIONS - READ CAREFULLY

A. Complaint Form. You must file your original complaint and a copy for each named Defendant. Your complaint must be clearly handwritten or typewritten. Do not use the back of a page. Your complaint must be signed by you; no notary is required. Any false statement of material fact may serve as the basis for prosecution for perjury.

B. Proper Court. Your complaint can only be brought in this Court if a defendant is located in the Southern District of Alabama and the rest of the defendants are located in Alabama or if your claim arose in this district. The Southern District of Alabama is comprised of the following counties: Baldwin, Clarke, Choctaw, Conecuh, Dallas, Escambia, Hale, Marengo, Mobile, Monroe, Perry, Washington, and Wilcox.

C. Separate Case. It is necessary to file a separate complaint form for each claim unless the claims are related to the same incident or issue.

D. Defendants. The persons who are listed as defendants in section III of the complaint are deemed by the Court to be the only defendants to this action. A defendant's present address must be provided. The Court is unable to serve process without the present address being furnished. The first defendant listed in section III should be the defendant that you list in the style of your case on your complaint form and motion to proceed without prepayment of fees and costs, if applicable, and any other pleading filed with the Court.

E. Pleading the Complaint. Your complaint should not contain legal arguments, case law or statutory citations. You are required to provide facts. Your complaint shall be a short and plain statement of your claim and shall provide fair notice to each defendant of the claim against that defendant and of the factual grounds upon which the claim rests.

F. Fees. This complaint cannot be properly filed unless it is accompanied by the \$402.00 filing fee, or a motion to proceed without prepayment of fees if you are unable to afford the filing fee and other costs associated with prosecuting this action. If IFP is granted the filing fee is \$350.00.

If you are unable to pay the filing fee and service costs for this action, you may ask the Court to let you proceed without prepayment of fees and costs. A blank motion for this purpose is included.

If you wish to proceed without prepayment of fees and costs, you must complete and mail to the Clerk of Court a copy of the "Motion to Proceed Without Prepayment of Fees" mailed to you with this complaint. This motion will be returned to you without action unless you have an authorized officer at the jail or prison complete the financial statement mailed to you with this form.

Even if the Court authorizes you to proceed without prepayment of filing fees, you are obligated to pay the full \$350.00. If you have the ability to pay a partial filing fee when your complaint is filed, you will be required to pay an amount, based on your assets, of up to the greater of 20 percent of your average monthly balance in your prison account or your average monthly balance for six months immediately preceding the filing of your complaint. Thereafter, your prison account will be garnished at the rate of 20 percent of your monthly income until the filing fee is paid.

G. Form of Pleadings. All pleadings and other papers filed must be on 8 1/2" x 11" paper, legibly handwritten or typewritten. Every document filed after the complaint must have the style of the case and the docket number. Every pleading must be signed by you and must contain your address and telephone number, if any; otherwise, the pleading will be stricken. See Fed. R. Civ. P. 11(a). No notary is required.

H. Certificate of Service. Each pleading filed after the complaint must contain a certificate of service indicating that the pleading has been served on the opposing parties and the date that it was sent. A pleading will be stricken if it does not contain this certificate of service. See Fed. R. Civ. P. 5.

I. Copies. This Court will not make copies of your complaint or pleadings unless you prepay the required per page copying fee.

J. Form of Pleadings. Do not write letters to the Court. All pleadings and documents should be sent to the Clerk of the Court, and not to a magistrate judge or a district judge.

K. No Evidence. No evidence shall be sent to the Court for filing or storing.

I. PREVIOUS LAWSUITS.

A. Have you filed any other lawsuits in state or federal court dealing with the same or similar facts involved in this action:

Yes (☒) No (☐)

B. Have you filed other lawsuits in state or federal court relating to your imprisonment:

Yes (☒) No (☐)

C. If your answer to questions A or B above is yes, describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using this same outline.)

1. Parties to this previous lawsuit:

Plaintiffs: Joe Nathan James, Jr.

Defendants: Terry Raybow, Commissioner of Alabama
Department of Corrections

2. Court (if federal court, name the district; if state court, name the county): United States
District Court for the Southern District of Alabama

3. Docket Number: 20-0299-CG-MU

4. Were you granted the opportunity to proceed without payment of filing fees?

Yes (☐) No (☒)

5. Name of judge to whom the case was assigned: P. Bradley Murray

6. If your case is no longer pending and has been dismissed, state the reason given by the Court as to why your case was dismissed, i.e., frivolous, malicious, failed to state a claim, defendants were immune, etc.

dismissed without prejudice for being malicious

7. Approximate date of filing lawsuit: May 31, 2020

8. Approximate date of ruling by court: July 20, 2020

II. YOUR PRESENT COMPLAINT.

A. Place or institution where action complained of occurred: Holman Prison

B. Date it occurred: ON going

C. Is there a prisoner grievance procedure in this institution? N/A

D. Did you present the facts relating to your complaint in the state prisoner grievance procedure?
Yes () No (X)

E. If your answer is YES:

1. What steps did you take? N/A

2. What was the result? N/A

F. If your answer is NO, explain why not: NO GRIEVANCE procedure

G. Your claim (briefly explain your claim: what, when, where, who; do not cite cases; you may, without leave of Court, add up to five (5) additional pages if necessary):

THE PLAINTIFF WAS SENTENCED TO DEATH ON July 9, 1999, THE DEFENDANT,
THE SHERIFF OF JEFFERSON County, without taking receipt of AN
EXECUTION WARRANT from the clerk of the Court in which the death
SENTENCE WAS pronounced delivered THE PLAINTIFF into the hands of
THE WARDEN of Holman prison, THE PLAINTIFF WAS transported back
to JEFFERSON County, on March 29, 2021 for a Court appearance, THE
DEFENDANT, THE SHERIFF OF JEFFERSON County, again on July 7, 2021
delivered THE PLAINTIFF back into the hands of THE WARDEN at
Holman prison without AN EXECUTION WARRANT having BEEN
ISSUED, under well settled law it is made mandatory that THE
SHERIFF shall only deliver THE PLAINTIFF into the hands of
THE WARDEN along with AN EXECUTION WARRANT and it is →

III. PARTIES.

A. Plaintiff (Your name/AIS): Joe Nathan James, Jr. # Z-6010

Your present address: K-25 Holman 3700, Almore AL 36503

B. Defendant(s):

1. Defendant (full name) Mark R. HAY is employed as Sheriff at Jefferson County, Alabama

His/her present address is 2200 Rev. Abraham Woods, Jr. Blvd. Birmingham, AL 35203

(a) Claim against this defendant: delivered the Plaintiff into the hands of the warden of Holman prison without an execution warrant in place.

(b) Supporting facts (Include date/location of incident):

in July 1999 and then again on July 7, 2021 the Plaintiff was delivered into the hands of the warden of Holman prison without a execution warrant having been issued

2. Defendant (full name) Terry Raybon is employed as Warden

at Holman prison.

His/her present address is Holman 3700, Almore AL 36503.

(a) Claim against this defendant: received the Plaintiff without an execution warrant

(b) Supporting facts (Include date/location of incident):

in July 1999 and then again on July 7, 2021 Terry Raybon took delivery of the Plaintiff without an execution warrant

3. Defendant (full name) N/A is employed as N/A

at N/A.

His/her present address is N/A.

(a) Claim against this defendant: _____

(b) Supporting facts (Include date/location of incident):

C. Additional Defendants: (If there are additional defendants, you may list them on separate pages using the same outline above).

IV. A. You must answer the following questions:

1. State the conviction(s) for which you are presently incarcerated: Capital Murder during
Surgery, first degree

2. When were you convicted? JUNE 16, 1999

3. What is the term of your sentence? death

4. When did you start serving this sentence? N/A

5. Do you have any other convictions which form the basis of a future sentence?
Yes () No (☒)

If so, complete the following:

(a) Date of conviction: N/A

(b) Term of sentence: N/A

6. What is your expected end of sentence (E.O.S.) date? N/A

B. If this present lawsuit concerns your criminal conviction or sentence, state whether your conviction has been:

	Conviction	Sentence
Reversed	yes () no (<input checked="" type="checkbox"/>)	yes () no (<input checked="" type="checkbox"/>)
Expunged	yes () no (<input checked="" type="checkbox"/>)	yes () no (<input checked="" type="checkbox"/>)
Invalidated	yes () no (<input checked="" type="checkbox"/>)	yes () no (<input checked="" type="checkbox"/>)

Writ of habeas yes() no(☒)
corpus granted

yes() no(☒)

C. If you answered yes to any of the questions, state the Court or entity that relieved you from your conviction or sentence and the date: N/A

V. State briefly exactly what you want the Court to do for you if you win (make no legal argument, cite no cases or statutes):

Order that because the Plaintiff was delivered and received without a
Execution warrant in place, that no warrant shall issue in this matter

VI. **AFFIRMATION**. By my signature below, I swear or affirm under penalty of perjury that the facts set out in this complaint are true and correct.

6/29/22
Date

Joe M. James # 2-610
(Signature of Plaintiff Under Penalty of Perjury)

K-25 Holmes 3700
Current Mailing Address

Atmore, AL 36523

N/A
Telephone Number

PLAINTIFF SHALL IMMEDIATELY ADVISE THE COURT IN WRITING OF ANY CHANGE IN HIS ADDRESS, E.G., RELEASED, TRANSFERRED, MOVED, ETC. FAILURE TO NOTIFY THE COURT OF A NEW ADDRESS WILL RESULT IN THE DISMISSAL OF THIS ACTION FOR FAILURE TO PROSECUTE AND TO OBEY THE COURT'S ORDER.

Previous lawsuits:

1. JAMES v. Bailey, CA No. 2:96-CV-01053-SLB-ETC (N.D. Ala. Oct. 11, 1996)
2. JAMES v. Alabama, CA No. 5:96-CV-001340-RLN-ETC (N.D. Ala. July 22, 1996).
3. JAMES v. Bailey, CA No. 2:96-CV-01523-TFG-ETC (N.D. Ala. Oct. 11, 1996)
4. JAMES v. Raybon, et al., Civil Action: 20-0099-CG-MU
5. JAMES v. Raybon, et al., CA No. 21-0437-CG-MU
6. JAMES v. Raybon, et al., CA No. 21-0450-CG-MU
7. JAMES v. Marshall, et al., CA No. 21-0453-CG-MU
8. JAMES v. Jefferson County, et al., CA No. 20-33-CG-MU
9. JAMES v. Marshall, CA No. 1:22-CV-241-TFM-N
10. JAMES v. Federal Defenders, CA No. 1:22-CV-242-TFM-N

Habeas Actions:

1. JAMES v. Garrett, CA No. 2:95-CV-01115-SLB-ETC
2. JAMES v. Culliver, CA No. 2:10-CV-02929-CLS-HGD; Aff'd JAMES v. Warden, ___ F.3d ___ (11th Cir. July 1, 2020)
3. JAMES v. Raybon, CA No. 1:22-CV-00152-JB-N

Continued:

made mandatory that the Warden at Holman prison shall only take receipt of the Plaintiff and the execution warrant together, On June 7, 2022 an execution date was set for the Plaintiff to be killed on July 28, 2022, the Plaintiff asks this Court to issue a Temporary Restraining Order and a Preliminary Injunction staying the execution because of the substantive and procedural due process violations in this matter that has resulted in a denial of equal protection.

Joe N. James # Z-610

K-25

Holman 3700

Atmore, AL 36503



United States District Court
Southern District of Alabama
Clerk

155 St. Joseph Street
Mobile, Alabama 36602

Legal Mail